

Assembly Bill No. 581

CHAPTER 295

An act to amend Sections 1539, 1568.07, and 1569.37 of the Health and Safety Code, relating to care facilities.

[Approved by Governor September 9, 2013. Filed with
Secretary of State September 9, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 581, Ammiano. Care facilities: retaliation.

Existing law establishes the State Department of Social Services, and sets forth its powers and duties, including, but not limited to, the licensing and regulation of community care facilities, residential care facilities for persons with chronic, life-threatening illness, and residential care facilities for the elderly. Existing law authorizes any person to request an inspection of a facility by transmitting a request to the department alleging a facility violation of applicable law.

Existing law prohibits a licensee from discriminating or retaliating in any manner against any person receiving the services of the facility, or against any employee of the facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in an inspection. Existing law makes violation of these provisions a crime.

This bill would, instead, prohibit a licensee, or officer or employee of the licensee, from discriminating or retaliating in any manner, including, but not limited to, eviction or threat of eviction, against any person receiving the services of the facility, or against any employee of the licensee's facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department or initiated or participated in the filing of a complaint, grievance, or request for investigation with the local or state ombudsman pursuant to prescribed provisions of law. By expanding the scope of an existing crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1539 of the Health and Safety Code is amended to read:

1539. No licensee, or officer or employee of the licensee, shall discriminate or retaliate in any manner, including, but not limited to, eviction or threat of eviction, against any person receiving the services of the licensee's community care facility, or against any employee of the licensee's facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department pursuant to this chapter or has initiated or participated in the filing of a complaint, grievance, or request for investigation with the appropriate local or state ombudsman.

SEC. 2. Section 1568.07 of the Health and Safety Code is amended to read:

1568.07. (a) (1) Within 90 days after a facility accepts its first resident for placement following its initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The licensee shall notify the department, within five business days after accepting its first resident for placement, that the facility has commenced operating.

(2) The department may take appropriate remedial action as provided for in this chapter.

(b) (1) Every licensed residential care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least annually and as often as necessary to ensure the quality of care being provided.

(2) During each licensing inspection the department shall determine if the facility meets regulatory standards, including, but not limited to, providing residents with the appropriate level of care based on the facility's license, providing adequate staffing and services, updated resident records and assessments, and compliance with basic health and safety standards.

(3) If the department determines that a resident requires a higher level of care than the facility is authorized to provide, the department may initiate a professional level of care assessment by an assessor approved by the department. An assessment shall be conducted in consultation with the resident, the resident's physician and surgeon, and the resident's case manager, and shall reflect the desires of the resident, the resident's physician and surgeon, and the resident's case manager. The assessment also shall recognize that certain illnesses are episodic in nature and that the resident's need for a higher level of care may be temporary.

(4) The department shall notify the residential care facility in writing of all deficiencies in its compliance with this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(5) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

(c) Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services, at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter.

(d) No licensee, or officer or employee of the licensee, shall discriminate or retaliate in any manner, including, but not limited to, eviction or threat of eviction, against any person receiving the services of the licensee's facility, or against any employee of the licensee's facility, on the basis, or for the reason, that the person or employee or any other person has initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department pursuant to this chapter or has initiated or participated in the filing of a complaint, grievance, or request for investigation with the appropriate local or state ombudsman.

(e) Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility, of an impending or proposed inspection or evaluation of that facility by personnel of the department, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 3. Section 1569.37 of the Health and Safety Code is amended to read:

1569.37. No licensee, or officer or employee of the licensee, shall discriminate or retaliate in any manner, including, but not limited to, eviction or threat of eviction, against any person receiving the services of the licensee's residential care facility for the elderly, or against any employee of the licensee's facility, on the basis, or for the reason that, the person or employee or any other person has initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department pursuant to this chapter, or has initiated or participated in the filing of a complaint, grievance, or request for investigation with the appropriate local ombudsman, or with the state ombudsman recognized pursuant to Chapter 11 (commencing with Section 9700) of Division 8.5 of the Welfare and Institutions Code.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime

within the meaning of Section 6 of Article XIII B of the California Constitution.

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